

### REMARKS

Claims 1-3 and 5-23 were examined in the most recent office action, dated November 26, 2004. All claims stand rejected under 35 U.S.C. §103(a) as being obvious. By way of this response, withdrawn claims 24-38 have been canceled, claim 39 has been added, and the rejection over claims 1-3 and 5-23 is respectfully traversed. Accordingly, the applicant respectfully requests a Notice of Allowance for all claims.

#### Request for Reconsideration of Finality of Office Action.

Under MPEP §706.07(a), the second office action cannot be made final when the office action includes a new ground of rejection to a claim previously examined. In the first office action, dated January 30, 2004, originally filed claim 4, directly depending from claim 1, was rejected as obvious over Boyd, U.S. Patent No. 6,208,908.

The response to the office action, filed April 30, 2004, incorporated the subject matter of claim 4 into claim 1 and canceled claim 4. In the most recent office action, claim 1 was rejected as obvious over Bonnett, U.S. Patent No. 5,839,566 in view of Weatherly, U.S. Patent No. 3,416,438. Thus, this is a new rejection to the subject matter of originally filed claim 4, and the office action must be non-final for this reason alone.

Furthermore, the first office action argued that Boyd and the subject matter of claim 4 were "functional equivalents". However, the second office action argued that it would have been obvious to replace certain items of Boyd to arrive at the subject matter of claim 1. Thus, because the office action no longer rejects the subject matter of originally filed claim 4 based on being the functional equivalent of Boyd, this is also a new ground of rejection.

#### Claim 1 is Allowable.

Claim 1 recites, in part, a bin being biased under force of gravity toward a dump mode; a releasable latch positioned to retain the bin in the pick mode against the force of gravity, and a controller operably coupled to the latch and having a processor programmed to generate the release signal to release the latch, wherein the bin automatically switches from the pick mode to the dump mode under the force of gravity thereby to discharge articles.

Claim 1 further recites that articles are discharged onto the collection area, the collection area comprising a conveyor, and the processor is programmed to generate the release signal *as a selected area of the conveyor passes the dumping station.*

As mentioned earlier, claim 1 stands rejected under 35 U.S.C. §103(a) as being obvious over Bonnet in view of Weatherly. Claim 1 stands further rejected under §103(a) as being obvious over Boyd.

The rejection based on Bonnet must be withdrawn, because Bonnet expressly teaches away from the claimed subject matter. Bonnet describes tray assemblies 14 traveling on a conveyor 12. These tray assemblies 14 are held by gravity in a level position - the pick mode. When the tray assembly 14 reaches a desired location, the lifting arm 52 swings upward tilting the tray 25 upward so that the package slides off down a chute. "Once the roller assembly passes the trigger arm, the actuator 50 falls back into its original position and the tray 25 falls back onto the belt 12 under the influence of the spring *and gravity*." Column 6, lines 54-57. Claim 1 of Bonnet expressly requires an actuator that "moves to tilt the tray about [an] axis." This moving actuator that tilts the tray is necessary to move the tray upward to the dump mode against the force of gravity.

Thus, Bonnet teaches away from a bin being biased under force of gravity to the dump mode, and teaches away from a latch positioned to retain the bin in the pick mode against the force of gravity. There is simply no teaching of a latch that maintains the bin in the pick mode "against the force of gravity" in any regard. Accordingly, no rejection even based even in part on Bonnet is possible.

Weatherly fails to supply the deficiencies noted above with respect to Bonnet. In fact, Weatherly was simply cited for its teaching of a bin as opposed to the trays of Bonnet. Accordingly, claim 1 is allowable over Bonnet and Weatherly either singly or in combination.

Turning now to the rejection over Boyd, Boyd describes a bin 12 that travels along rails 22 to pack stations 16. At the pack stations 16, the articles held in the bin 12 are dumped onto tables 124. An operator then packages the articles. The operator may then put the packaged articles onto a conveyor 138 to "deliver the packaged articles to a location in preparation for delivery to the customer." Column 11, lines 33-35.

The rejection to Boyd must also be withdrawn as Boyd expressly requires that the articles be dumped at a pack station. Claim 1 requires that the system of Boyd include a "pack station arranged along a direction of movement of the conveyor for receiving the articles to be discharged from the receptacle." The pack station is where the operator

packages the articles. There is no possibility for the system of Boyd to dispense the articles onto a conveyor as is claimed, because it is impossible to package the articles as they travel along the conveyor. For this reason alone, there is no suggestion within Boyd for the limitations of claim 1, and the rejection over Boyd must be withdrawn.

Further, there is no disclosure of a processor that is programmed to generate the release signal *as a selected area of the conveyor passes the dumping station*. Boyd simply teaches dumping the articles onto a fixed table. There is no suggestion for any coordination between the dumping of the articles and a particular location on a moving conveyor.

The recited features of the dump station apparatus allow for the dumping of a bin onto a conveyor at a pre-selected location of the conveyor. This claimed structure of a single dump station allows a plurality of similarly constructed dump stations to work together to unload each of their contents on a single location of the conveyor. See the specification, page eight, lines 14-16, "Ultimately, when all of the articles for an order are discharged onto the same section of the conveyor 16, the order is advanced to the discharge end 20 of the conveyor." None of the cited references disclose this type of coordinated dumping from a bin to a selected location of a conveyor at the command of a processor. Accordingly, claim 1 is allowable over the cited references.

Claim 15 is Allowable.

Claim 15 recites, in part, a support and a bin pivotably mounted to the support. Boyd describes a bin that slides along rails in a conveyor system. The bin has fixed walls and a bottom that can pivot outward relative to the fixed walls to dump the articles held therein below. The office action makes no reference to any support, and only mentions that the bottom of the bin of Boyd pivots.

The bin of Boyd is not "pivotably mounted to the" rails. Instead, the bin only slides along the rails and cannot pivot about the rails. The only item that is disclosed to pivot is the bottom wall of the bin. But the bottom wall is not pivotably mounted to the rails. Thus, there is no teaching within Boyd of a bin pivotably mounted to a support. Claim 15 is allowable over the cited reference.

Claim 39 is Allowable.

Newly added claim 39 includes, in part, a first bin, a second bin, a conveyor, and a processor programmed to generate a first release signal as a selected area of the conveyor passes the first bin and is programmed to generate the second release signal as the selected area of the conveyor passes the second bin.

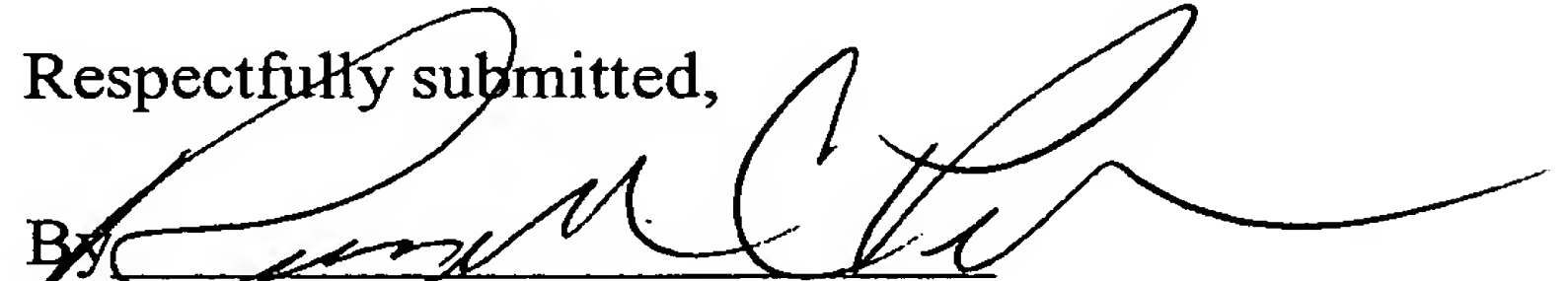
None of the cited references disclose a first bin and a second bin that dump articles onto a conveyor. None of the references disclose any coordination between a first bin and a second bin such that they will dump articles on the same selected area of the conveyor as it passes each of them by. As mentioned earlier, this coordination allows for the accumulation of the contents of several bins onto the same location of the conveyor as the conveyor moves. Accordingly, claim 39 is allowable over the cited references.

**CONCLUSION**

In view of the above amendment, the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 13-2855, under Order No. 29488/38131, from which the undersigned is authorized to draw.

Dated: November 24, 2004

Respectfully submitted,



Russell C. Petersen

Registration No.: 53,457

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant